

CRIMINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 13 2020
CLERK, U.S. DISTRICT COURT
By Deputy

UNITED STATES OF AMERICA

v.

No. 4:20-MJ-205

HEATH ALLEN PAIN (01)

CRIMINAL COMPLAINT

I, Special Agent Stephen Brenneman, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

Alleged Offense:

On or about January 9, 2020, in the Fort Worth Division of the Northern District of Texas, defendant **Heath Allen Paine**, knowing he had been convicted of a crime punishable by imprisonment for a term in excess of one year, did knowingly possess in and affecting interstate and foreign commerce the following firearm: a Glock, model 27, .40 caliber pistol, serial number XDK096. In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Probable Cause:

I, Special Agent Stephen Brenneman, affiant, under oath, duly state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and have been so since 2008. I am currently assigned to the Fort Worth Field Office in the Dallas Field Division. The statements set forth in this affidavit are true and correct to the best of my knowledge and belief, but are not inclusive of all the evidence or information in the case.

1. On January 9, 2020, the Benbrook Police Department (BPD) received a phone call on the non-emergency police line. There did not seem to be anyone on the other end of the line, but the dispatcher could hear someone in the background say something about "shooting a clip outside."

2. Subsequently, BPD Officers responded to the residence of the call which was 1221 Usher Street, Benbrook, Texas. Officers made contact with a neighbor who stated that he heard a gunshot near 1221 Usher Street. Officers then went to make contact with the occupants of 1221. Prior to making contact, they witnessed a white Audi S5 traveling at a high rate of speed towards them on Usher Street. The Audi stopped in the street at 1221 Usher.

3. Officers made contact with driver, Bronson Tinoco, who stepped out and spoke with Officer Denson at the rear of the vehicle. Officer Eldrege attempted to make contact with the passenger of the vehicle, who was seated in the front passenger seat, but the passenger would not open the door. The passenger, later identified as **Heath Allen Paine**, told the Officer Eldrege that the officer had no reason to search him. At this time Officer Eldrege witnessed what appeared to be the butt of a handgun (which later turned out to be a digital scale) in **Paine's** hand. Officer Eldrege also saw a "sawed off rifle" on the floorboard near **Paine's** feet. Sergeant Marx arrived at the vehicle, witnessed a "meth pipe" in plain view and recognized the passenger as **Paine**. Sergeant Marx was familiar with **Paine** and knew that **Paine** had warrants from the city of Benbrook.

4. **Paine** eventually exited the vehicle. As Officer Eldrege was going to search **Paine**, **Paine** reached into his right jacket pocket. Officer Eldrege immediately grabbed **Paine's** hand and got it out of his pocket. Officer Eldrege then reached into **Paine's** jacket pocket and recovered a Glock, model 27, .40 caliber pistol, serial number XDK096. The pistol was loaded with six rounds of .40 caliber ammunition. **Paine** again tried to reach into one of his pockets. Officer Eldrege grabbed his hand and **Paine** began fighting the officer. Officers eventually got **Paine** on the ground and handcuffed him.

5. An officer searched **Paine** and found a baggie of .22 caliber ammunition in his right pants pocket and a glass smoking pipe with residue believed to be methamphetamine in his left pants pocket.

6. Because a meth pipe had been observed in the vehicle, once **Paine** was in custody, the officers conducted a probable cause search of the vehicle and recovered numerous items including:

- A Marlin, model 60, .22 caliber rifle, serial number 18521375 from the passenger side floorboard
- One Glock magazine with seven (7) rounds of .40 caliber ammunition loaded in it from the passenger side door pocket

7. Officers made contact with the two people, G.H. and J.H., who exited 1221 Usher Street during the events with **Paine** and Tinoco. G.H. explained that his daughter, D.H., had been arguing with her boyfriend, **Paine**, while at the residence. G.H. stated that he saw **Paine** go into their backyard and then he heard a gunshot. J.H. told officers that she witnessed **Paine** go into the backyard and shoot one round out of a firearm.

8. Officers received consent to search the backyard and recovered a .40 caliber shell casing that looked like a match to the rounds that were found in the Glock recovered from **Paine**.

9. On March 3, 2020, I reviewed **Paine**'s criminal history and found that **Paine** has a felony Robbery conviction from Titus County, Texas.

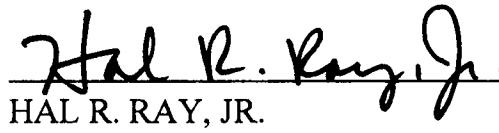
10. On March 6, 2020, ATF Interstate Nexus Expert Mark Feltz, based on the description of the Glock pistol recovered from **Paine** on January 9, 2020, determined that it had traveled in, or affected, interstate or foreign commerce prior to being recovered in this investigation.

Based upon the above facts and circumstances, it is my belief that there is probable cause to believe that **Heath Allen Paine**, did possess a firearm in violation of 18 U.S.C. §§ 922(g)(1).



Stephen Brenneman
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and Explosives

SWORN AND SUBSCRIBED before me this 13th day of March 2020 at
11:25 a.m. in Fort Worth, Texas.



HAL R. RAY, JR.
UNITED STATES MAGISTRATE JUDGE